

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

WILLIAM S. YANCEY, individually and on )  
behalf of others similarly situated, )

Plaintiff, )

vs. )

REMINGTON ARMS COMPANY, LLC and )  
FEDERAL CARTRIDGE COMPANY, )

Defendants. )

Civil Action No.: 1:12-CV-477

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DAVID C. HENDERSON, individually and on )  
behalf of others similarly situated, )

Plaintiff, )

vs. )

REMINGTON ARMS COMPANY, LLC )

Defendant. )

Civil Action No.: 1:12-CV-437

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RONNIE MAXWELL, on behalf of himself )  
and others similarly situated, )

Plaintiff, )

vs. )

REMINGTON ARMS COMPANY, INC., )

Defendant. )

Civil Action No.: 1:10-CV-918

**PLAINTIFFS' OBJECTION TO MAGISTRATE JUDGE'S  
MEMORANDUM AND RECOMMENDATION**

Pursuant to Fed. R. Civ. P. 72(b) and 28 U.S.C.A. § 636(b)(1), Plaintiff Ronnie Maxwell submits his written objections to Magistrate Judge Joe L. Webster's Memorandum Opinion and Recommendation of September 30, 2013, recommending granting Defendant Remington's Motion to Dismiss for failure to state a claim, granting Defendant Federal Cartridge's Motion to Dismiss or failure to state a claim, and further recommending that the Plaintiffs' Motions for Extension of Time to file class certification and Joint Motion for leave to file an Amended Consolidated Complaint be denied as moot.<sup>1</sup> Plaintiff objects to the Magistrate Judge's recommendation because: (1) the Magistrate Judge erred in holding that reliance is required for Plaintiff's breach of express warranty, and that Plaintiff failed to plead he relied on Remington's advertisements in purchasing the subject rifles; and (2) the Magistrate Judge further erred in holding Plaintiff has not plead an Unfair and Deceptive Trade Practice Act ("UDTPA") claim. Although Plaintiff was not required to plead reliance for his breach of express warranty claim, he did adequately do so. Similarly, Plaintiff did plead all of the required elements for a UDTPA claim including aggravating factors of both unfairness and deception in addition to his breach of warranty claim that are sufficient to satisfy the requirements for his UDTPA claim. In further support, Plaintiff submits herewith his Memorandum of Law in which these objections are made with specificity.

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<sup>1</sup> Plaintiffs David C. Henderson and William S. Yancey have settled their claims against Defendant Remington Arms Company, Inc. ("Remington") and Ammunition Accessories, Inc. and will be filing a stipulation of dismissal once the settlement documents are finalized and executed. Accordingly, this Objection will focus solely upon the Magistrate's rulings concerning Mr. Maxwell's claims against Defendant Remington.

Respectfully submitted this the 17<sup>th</sup> day of October, 2013.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of October, 2013, I electronically filed the foregoing Plaintiffs' Objection to Magistrate Judge's Memorandum and Recommendation using the CM/ECF system which will send notification of such filing to the Defendants through its attorneys.

The undersigned is informed and believes that all parties entitled to Notice will receive this Notice of this filing via the Court's electronic distribution system pursuant to Rule 5 of the Federal Rules of Civil Procedure.

This the 17<sup>th</sup> day of October, 2013.

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